

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

HAL HICKS,)	
)	
Plaintiff,)	
)	
v.)	Case No. 03-CV-4004-JPG
)	
MIDWEST TRANSIT, INC., et. al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

GILBERT, District Judge:

This matter comes before the Court on Hicks' Motion for Leave to File Rule 59(e) Motion Instantly, or in the Alternative, to Consider the 59(e) Motion a Rule 60(b) Motion (Doc. 121). Hicks has also filed a motion for extension of time to file his notice of appeal (Doc. 124).

On March 9, 2006, the Court entered judgment against Hicks after it granted HARRISdirect LLC's ("Harris") motion for summary judgment. (Docs. 119, 120). Federal Rule of Civil Procedure 59(e) states, "Any motion to alter or amend a judgment shall be filed no later than 10 days after entry of the judgment." Despite the fact that Hicks did not file his motion for leave within the 10-period, he requests leave to file a motion under the rule. As Hicks has cited to no authority indicating that a Rule 59(e) motion may be filed after the 10-day period stated in the rule, to the extent he requests leave to file under Rule 59(e) his motion is **DENIED**. In the alternative, he requests leave to consider the Rule 59(e) motion as a Rule 60(b) motion. There is no reason to request such relief because Hicks has not yet filed a Rule 59(e) motion. He attempted to file such a motion concurrently with his motion for leave to do so, but it was stricken. In any event, a Court must treat a motion challenging a judgment filed after the 10-day period as one under Rule 60(b).

United States v. Deutsch, 981 F.2d 299, 300-01 (7th Cir. 1992). Therefore, the remainder of Hicks' motion is **DENIED** as well.

Hicks' motion for extension of time is **GRANTED**. If Hicks wishes to appeal, he shall file his notice of appeal on or before April 21, 2006.

CONCLUSION

Hicks' motion for leave (Doc. 121) is **DENIED**. Hicks' motion for extension of time is **GRANTED**.

IT IS SO ORDERED.

Dated: April 17, 2006.

/s/ J. Phil Gilbert
J. PHIL GILBERT
U.S. District Judge